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MT LEGISLATIVE HISTORY

Chapter 671 1985

Bill H _____ (S) 13 Original bill & hist. ___C

H. Committee on State Admin.		S. Committee on State Admin.	
Hearing Date(s) MAR 7	✓C	Hearing Date(s) JAN 8	✓C
_____	___C	JAN 11	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out MAR 7	✓C	JAN 11	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

MONTANA LEGISLATIVE [illegible]UNCIL BILL STATUS SYSTEM
FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) STATE ADMINISTRATION

CHAIRMAN--HAFFEY, JACK
NORMAL SCHEDULE==> SITE: ROOM 331 DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON
SECRETARY-PENNINGTON, GLENDA

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
SB0008	1/07	1/14	1/14 1/15	PASS AS AMENDED		1/15
NEUMAN, TED			RETIREMENT SYSTEMS' REPRESENTATION ON BOARD OF INVESTMENTS			
SB0009	1/07	1/14	1/14 1/15	DO PASS		1/15
NEUMAN, TED			ADDING FOUR EXEMPT POSITIONS FOR BOARD OF INVESTMENTS			
SB0010	1/07	1/15	1/15 1/18 1/25	ADVERSE REPORT		1/25
NEUMAN, TED			AMEND CONSTITUTION TO PROVIDE PRUDENT EXPERT RULE FOR INVESTMENTS			
SB0011	1/07	1/15	1/15 1/18 1/25	PASS AS AMENDED		1/25
NEUMAN, TED			REPLACE PRUDENT MAN RULE WITH PRUDENT EXPERT RULE FOR INVESTMENTS			
SB0012	1/07	1/08	1/08	DO PASS		1/08
HAFFEY, JACK			BUDGET AMENDMENT PROCEDURES-INCLUSION OF UNIV. SYSTEM, LEG. AND JUDICIAL			
SB0013	1/07	1/08	1/08 1/11	DO PASS		1/11
STORY, PETE			CLARIFYING THAT MAPA DOES NOT APPLY TO LOCAL GOVERNMENT UNITS			
SB0014	1/07	1/08	1/08	DO PASS		1/08
KOLSTAD, ALLEN			RESTRICTION OF FREE LEGISLATIVE PROCEEDINGS FOR NEWS MEDIA TO MONTANA MEDIA			
SB0023	1/07	1/09	1/09	ADVERSE REPORT		1/09
NEUMAN, TED			CREATING A PENSION POLICY COMMISSION TO TERMINATE IN 1989			
SB0059	1/07	1/18	1/18	PASS AS AMENDED		1/18
TOWE, THOMAS E.			ACCESSIBILITY OF PUBLIC BUILDINGS BY HANDICAPPED PERSONS			
SB0061	1/07	2/18	2/18	TABLED 2/18		
MANNING, RICHARD E.			CLOSED PRIMARY ELECTIONS			
SB0078	1/07	1/15	1/15	PASS AS AMENDED		1/15
TVEIT, LARRY J.			EXEMPTING CERTAIN FIRE DEPARTMENT RELIEF ASSOCIATIONS FROM AUDIT			

bill to cause the University System, and the legislative, and judicial branches of state government to do what the executive branch of government already has to do when it requests budget amendments. A budget amendment is a change in appropriations from that that was included in the last legislative session. From the end of one legislative session to another, new funds become available from new sources that were not contemplated during that session. Budget amendments can only be made when funds become available from other places. They wanted us to become aware of the impact, so legislature two sessions ago began to put into law and now has in law, budget amendments saying what the approving authority must do before the budget can be amended. And the criteria must be approved and checked to allow for the budget authority to approve it. Only the executive branch has to do this, to meet this criteria. The University System and the Legislative Branch will not only have to go through the criteria but they have to get approval through the fiscal analyst's office and the finance committee will say whether it approves or rejects or disagrees with the approving of that budget amendment. This causes some problems for these agencies, but what is good for one is good for all of them. I don't know if there are any proponents here, but Curt Nichols, Principal Analyst from the Fiscal Analyst's Office is here to answer any questions.

There were no other proponents and no opponents.

SENATOR MANNING made a motion that SENATE BILL 12 do pass; and it was seconded by SENATOR CONOVER and unanimously passed.

SENATE BILL 13: "AN ACT CLARIFYING THAT THE MONTANA ADMINISTRATIVE PROCEDURE ACT DOES NOT APPLY TO ALL UNITS OF LOCAL GOVERNMENT, SCHOOL DISTRICTS, OR ANY OTHER POLITICAL SUBDIVISIONS OF THE STATE; AMENDING SECTION 2-4-102, MCA; AND PROVIDING AN APPLICABILITY DATE." SENATOR PETE STORY sponsored this bill and explained that there were hundreds of meetings of little tiny units of government and that this bill would clearly spell out that these smaller units did not have to follow the procedures followed by the larger units of government, such as state government. These small units such as local governments and county commissions and school districts would spend more time and expense trying to comply with all the rules and regulations than the job should require. MAPA should be applied to state agencies rather than to local governments.

Thank you Senator Story, are there proponents:
ALEC HANSEN, League of Cities and Towns, concurs.
GORDON MORRIS, Montana Association of Counties, concurs.
CHIP ERDMANN, Montana School Board Association. We would also like to support this bill and would endorse the comments of the previous speaker. We do not think that the Administrative Procedure Act should apply to school districts. RICHARD TRERISE, Montana Association of County School Superintendents, concurs. JOHN LARSON, on behalf of the State Superintendent of Public Instruction.

Thank you, are there any opponents: RAY BLEHM, Montana Firemen's Association. Mr. Blehm wasn't adamantly opposed to SB-13 but was concerned that some of the larger local government units, such as the city of Billings, can pass rules without any chance of input by affected persons and wanted the committee to consider this in their deliberations on SB-13.

SENATOR LYNCH asked for further information regarding the school district's problem. It was referred to ROGER TIPPY, who explained the Yanzick case in detail. SENATOR LYNCH asked for further clarification from Mr. Larson. Mr. Larson told him in some detail about the Yanzick case and the Donnes case in Red Lodge.

SENATOR PETE STORY: The more complex government gets, the more important it is that government does not trample over citizens. It is an improper vehicle for school boards, and it should be clarified. If they complied with MAPA, any decisions these hundreds of units made would cost taxpayers millions to put them in the records.

SENATE BILL 13 was deferred until our next meeting.

SENATE BILL 14: SENATOR ALAN KOLSTAD explained that he is sponsoring this bill on behalf of the Legislative Council. A bill entitled, "AN ACT TO RESTRICT FREE LEGISLATIVE PROCEEDINGS FOR NEWS MEDIA TO MONTANA NEWSPAPERS AND BROADCASTERS; AMENDING SECTION 5-11-213, MCA." This really closes a loophole that exists in our statutes. At the present time we are obligated to furnish to all news media copies of legislative proceedings. This bill would make it so that out-of-state news media would have to pay for any copies that they were furnished. Right now, they could request and we would have to furnish it to them free-of-charge.

There were no other proponents or opponents.

SENATOR LYNCH asked how much one of these packets costs. SENATOR KOLSTAD replied that they are about $400.00 per packet, but he would have to check his records.

SENATOR LYNCH made a motion that SENATE BILL 14 do pass, SENATOR CONOVER seconded, and it was unanimously passed.

Motion was made to adjourn at 10:45 a.m.

Jack Haffey

SENATOR JACK HAFFEY, Chairman

ROLL CALL

STATE ADMINISTRATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date

NAME	PRESENT	ABSENT	EXCUSED
SEANTOR JACK HAFFEY, Chairman	✓		
SENATOR LES HIRSCH, Vice-Chairman	✓		
SENATOR JOHN ANDERSON	✓		
SENATOR MAX CONOVER	✓		
SENATOR WILLIAM FARRELL	✓		
SENATOR ETHEL HARDING	✓		
SENATOR J. D. LYNCH	✓		
SENATOR DICK MANNING	✓		
SENATOR JOHN MOHAR	✓		
SENATOR LARRY TVEIT	✓		

DATE January 8, 1985

COMMITTEE ON State Administration

Please Print VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bob Burt	MA Counties	SB 13		
Fred Hubak	MHCo	SB13		
Gordon Morris	MACo	SB13		
R L Bluhm	Mt Farmers Assoc	SB13		
Richard Trainer	MACSS	SB13		
Chip Erdman	MSBA	SB13	X	
Alec Hansen	League of Cities	SB13	X	
Story	Sponsor	SB13	X	
Kolstad	Sponsor	SB14	X	
Curt Nichols	LFA	SB12		

(Please leave prepared statement with Secretary)

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 11, 1985

The third meeting of the State Administration Committee was called to order at 10:05 a.m. on January 11, 1985, by Chairman Jack Haffey in Room 331 of the Capitol Building.

ROLL CALL: The members were all present with the exception of SENATOR HIRSCH.

EXECUTIVE ACTION ON SENATE BILL 13: SENATOR LYNCH moved that SENATE BILL 13 DO PASS. SENATOR MANNING seconded the bill. SENATOR MANNING called question and it was put to a vote. SENATE BILL 13 was unanimously passed.

The Chairman then told them about the hearings for next week. He also mentioned that this committee is responsible for taking formal action on the Governor's appointments.

The meeting was adjourned at 10:10 a.m.

Jack Haffey

SENATOR JACK HAFFEY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date

NAME	PRESENT	ABSENT	EXCUSE
SEANTOR JACK HAFFEY, Chairman	✓		
SENATOR LES HIRSCH, Vice-Chairman		✓	
SENATOR JOHN ANDERSON	✓		
SENATOR MAX CONOVER	✓		
SENATOR WILLIAM FARRELL	✓		
SENATOR ETHEL HARDING	✓		
SENATOR J. D. LYNCH	✓		
SENATOR DICK MANNING	✓		
SENATOR JOHN MOHAR	✓		
SENATOR LARRY TVEIT	✓		

STANDING COMMITTEE REPORT

January 11, 19 85

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE Bill No. 13

CLARIFYING THAT MAPA DOES NOT APPLY TO LOCAL GOVERNMENT UNITS

Respectfully report as follows: That SENATE Bill No. 13

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

Forty-Ninth LEGISLATIVE SESSION

COMMITTEE ON State Administration

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 59	1/24	3/5	3/5				3/5		
114	1/29	3/5	3/5				3/5		
100	1/28	3/6	3/6						3/6
14	1/14	3/6	3/6				3/6		
8	1/21	3/6	3/6				3/6		
78	1/21	3/7	3/7				3/7		
13	1/18	3/7	3/7				3/7		
24	1/18	3/7	3/7				3/7		
10	2/27	3/8	3/12					3/12	
11	2/27	3/8	3/12					3/12	
115	2/27	3/7	3/7				3/7		
123	2/27	3/8	3/8				3/8		
124	2/27	3/8	3/8				3/8		
131	2/27	3/8	3/8				3/8		
133	2/27	3/12	3/12				3/12		
134	2/27	3/12	3/12					3/12	

Use a separate sheet for Senate, House Bills, and Resolutions

floor as he is familiar with the bill.

While waiting for Sen. Towe to present his bill the Committee took executive action on the following bills.

DISPOSITION OF SENATE BILL NO. 115: Rep. Peterson moved that SB 115 BE CONCURRED IN, seconded by Rep. Fritz. The motion CARRIED UNANIMOUSLY. Rep. Nelson will carry the bill.

DISPOSITION OF SENATE BILL NO. 78: Rep. Harbin moved that SB 78 BE CONCURRED IN, seconded by Rep. Cody. The motion CARRIED UNANIMOUSLY. Rep. Harbin will carry the bill.

CONSIDERATION OF SENATE BILL NO. 24: Sen. Tom Towe, Senate District #46, sponsor, said this bill came out of the Select Committee on Indian Affairs and said that there are problems of Indian jurisdiction coming up. Indian nations are separate sovereign nations so there are problems in providing services on the reservations. Agreements are entered into between the county, cities, State or State agencies and a tribe and this helps to provide services. He said there are a large number of items that need to be handled. This bill addresses who would administer these agreements. He said if the stricken material is read very carefully that affects everything and there isn't anything left. This language is being stricken and reworded so they can do it differently. He explained the language being inserted on page 1, lines 17-22. This bill encourages them to deal in substantive matters that can be mutually agreed upon.

PROPONENTS: Gary Kimbel, on behalf of Louis Clayborn, Coordinator of Indian Affairs, read Mr. Clayborn's prepared testimony which is attached as Exhibit #4. He said they do support this bill to allow governmental cooperation between the State and tribes.

Rep. Dorothy Cody wished to be on the record as a proponent of SB 24 as did Rep. Ray Harbin and Roland Kennerly.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 24: There were no questions from the Committee.

Without further comment, Sen. Towe closed.

CONSIDERATION OF SENATE JOINT RESOLUTION NO. 23: Sen. Jack Haffey, Sen. District #33, sponsored the Resolution asking that Congress and the President take a role on behalf of the United States in pursuing peace in Ireland. Because this country has benefited so greatly from these two nations, we have a responsibility to pursue the peace process in Ireland.

DISCUSSION OF SENATE BILL NO . 78: Rep. Jenkins asked a question concerning the language on page 3, line 21, to which Mr. Korn replied that if an association's budget reaches $18-19,000, and they feel they should have an audit, they may do so, and the State is willing to conduct that audit.

In closing, Sen. Tveit said he thought it was a good bill that clears up some of the language in the statutes.

CONSIDERATION OF SENATE BILL NO. 13: Sen. Pete Story, sponsor, said that this bill was asked for and introduced at the request of the Administrative Code Committee. He said that page 3, line 6, clarifies that "agency" does not include a school district unit of local government, or any other political subdivision of the state. This was brought about by the interpretation of a local district court that said schools were to follow the Administrative Procedures Act. This interpretation would put a burden on all local governments and districts. It is necessary for the state agencies but we should not expect the local governments to conform to this.

PROPONENTS: There were no proponents.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 13: Chairman Sales asked what type of problem prompted the case that was taken to court. Chip Erdmann, Montana School Board Association, said in the case of Taylor v. School District, concerning the termination of a tenured teacher, the court determined that the MAPA applied to local county superintendents of schools. A subsequent case that went to court asked that they reverse themselves. The court again came out with that decision. However, the State Superintendent of Public Instruction has promulgated rules that differ from the MAPA and puts the school districts in a spot. Mr. Erdmann explained the difference in the procedures between the MAPA and the Superintendent's rules. They are very similar and the Superintendent's rules probably give more rights to the parties. There are above five appeals that can be taken.

Mr. Erdmann also explained the process of terminating a tenured teacher such as notification, they then request a hearing before the school board, etc., and on through the process. It is a cumbersome system and in some cases has taken 5-7 years to settle. They are currently questioning which rules they shoudl follow. This bill would add some certainty to the area. No matter which set of rules they follow, they are leaving themselves open to a challenge.

In closing, Sen. Story said there is the possibility that whichever set of rules are used, the individual could sue and say that the other set shoudl have been followed. That is the reason for this bill. He asked that Gary Spaeth carry the bill on the

CS-34

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/7/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	✓		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	✓		
Compton, Duane	✓		
Cody, Dorothy	✓		
Fritz, Harry	✓		
Garcia, Rodney	✓		
Hayne, Harriet	✓		
Harbin, Raymond	✓		
Holliday, Gay	✓		
Jenkins, Loren	✓		
Kennerly, Roland	✓		
Moore, Janet			
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	✓		
Pistoria, Paul			✓
Smith, Clyde	✓		

VISITORS' REGISTER

_____ COMMITTEE

BILL NO. SB 13 DATE _____

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dianne Dannelly	Mont Assoc of Counties		—
Greg Petesch	Leg. Council		
Chris Erdmann	MRSBA	✓	
Richard Trenka	MACSS	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE REPORT

March 7 19 85

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE Bill No. 13

Third reading copy (Blue color)

CLARIFYING THAT MAPA DOES NOT APPLY TO LOCAL GOVERNMENT UNITS

Respectfully report as follows: That SENATE Bill No. 13

BE CONCURRED IN

~~DO PASS~~

Walter R. Sales, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY